

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7233

BILL NUMBER: HB 1559

NOTE PREPARED: Jan 26, 2011

BILL AMENDED:

SUBJECT: Drug Testing of Recipients of Assistance.

FIRST AUTHOR: Rep. McMillin

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (1) Requires the Division of Family Resources (DFR) to develop a program to randomly test individuals applying for or receiving assistance under the federal Temporary Assistance for Needy Families (TANF) program for the use of a controlled substance.
- (2) Provides that an individual who tests positive for a controlled substance without a prescription is ineligible to receive TANF assistance.
- (3) Provides that an individual who is ineligible to receive assistance may reapply for assistance under the TANF program on the earlier of: (a) six months after the date the individual tested positive for a controlled substance if, before the individual reapplies for assistance, the individual tests negative for the use of a controlled substance; or (b) the date the individual complies with and completes a drug abuse treatment program.
- (4) Requires the Department of Workforce Development (DWD) to develop a program to randomly test individuals applying for or receiving benefits under the unemployment insurance program for the use of a controlled substance.
- (5) Establishes similar requirements as those established for the testing under the TANF program.

Effective Date: July 1, 2011.

Summary of NET State Impact: This bill is expected to have a net fiscal impact of reducing state expenditures between \$303,000 and \$333,000 annually. This estimate is based on the cost of providing drug tests and the reduction in public benefit expenditures.

Additionally, requiring the DWD to implement a random drug testing program as a condition of receiving unemployment insurance compensation benefits could result in a potential loss of up to \$55 M in federal funding as the state unemployment insurance program would no longer be in compliance with federal law.

Explanation of State Expenditures: *Summary:* The Family and Social Services Administration (FSSA) reports that for FY 2010, 221,723 adults *received* TANF benefits and 150,666 *applied* for TANF benefits. Of the 221,723 individuals *receiving* TANF benefits, 488 of them are expected to test positive for drugs on both the initial and verification drug test. The total estimated cost for drug testing TANF recipients as provided in the legislation is \$172,000 (drug testing costs only, not including administration costs). The reduction in the state payment for TANF benefits is estimated to be between \$56,500 and \$87,000.

For FY 2010, approximately 150,000 adults are *receiving* Unemployment Insurance (UI) benefits and 442,131 *applied* for UI benefits. Of the approximately 150,000 adults *receiving* UI benefits, 330 are expected to test positive for drugs on both the initial and verification drug test. Of this amount, approximately 136 adults are expected to receive state-financed UI benefits. The total reduction in state expenditures for Unemployment Insurance (UI) is estimated to be \$694,000. These figures are indicative of the reduction in state expenditures for all individuals that test positive for drugs during the period of ineligibility.

The total estimated cost for drug testing 5% of the TANF and UI benefit recipient and applicant populations is estimated to be \$448,000 per year. Of this amount, \$205,000 is estimated to come from drug testing UI benefit *applicants* and \$69,000 from UI benefit *recipients*. An additional \$70,000 comes from TANF *applicants* and \$103,000 from TANF *recipients*.

Background Information:

Note: A report from the Ford School at the University of Michigan (Pollack, Danziger, Jayakody, and Seefeldt), titled Drug Testing Welfare Recipients - False Positive, False Negatives, Unanticipated Opportunities, was used to calculate the number of individuals who would test positive on drug tests.

Drug Testing Requirement: As reported by the FSSA, there are currently no TANF funds available for drug testing costs. The FSSA also reports the state would be responsible for the costs of drug testing.

For TANF, every individual who is (1) at least 18 years of age or (2) receives or applies for TANF benefits will be subjected to a random drug abuse testing program. For Unemployment Insurance, DWD is required to implement a random drug testing program for individuals who apply for or receive UI benefits. Additional tests can be ordered for individuals who either DWD or the Department of Family Resources (DFR) learn has been arrested or indicted on charges involving the illegal use of a controlled substance.

The bill requires samples from individuals who test positive for a controlled substance to be submitted to a second test to rule out a false positive. Individuals who, after the two drug tests and an administrative hearing, are determined to have illegally used a controlled substance are considered ineligible for TANF and UI benefits.

Expenses for drug testing will vary depending on (1) how many individuals apply for TANF benefits and (2) the methods the DWD uses to randomly select individuals from the UI benefit population for testing. The costs of the drug testing will vary depending on the number of individuals selected for testing and the number who test positive for illegal drugs that would require a verification test to confirm an initial positive. The cost

of the drug tests will also vary depending on how many panels the tests possess. If a test contains more panels, then the drug test is checking for the presence of more drugs and therefore the test increases in price.

The Indiana Department of Correction reports that a 5-panel drug test costs \$6.50 per test and a gas chromatograph and mass spectrometer (GC-MS) confirmation test (to verify initial drug tests) costs \$17 per test. If DFR is able to contract out the drug-testing requirements, this will have less of an effect on staff workload.

Total drug-testing costs will depend on the number of applicants for benefits as well as the number of benefit recipients. For FY 2010, FSSA reports there were a total of 150,666 applications for TANF benefits and 221,723 recipients of TANF benefits. Additionally, for FY 2010, there were 442,131 applicants for UI benefits and approximately 150,000 recipients of UI benefits.

Assuming 5% of TANF and UI benefit applicants and recipients are selected for drug testing, the costs for the initial drug test are estimated to be \$314,000 and the costs for the verification drug tests are expected to be \$134,000. The total cost for drug tests for applicants is expected to be \$448,000 per year with an estimated 488 TANF recipients, 330 UI recipients, 331 TANF applicants, and 973 UI applicants being ruled ineligible for benefits annually. This estimate does not account for the actual number of applicants who would be found eligible for benefits in the absence of a drug-testing program.

Cost Savings from Benefit Applicants:

An estimated 331 applicants for TANF benefits and 973 applicants for UI benefits are expected to test positive on both their initial and verification drug test, thereby disqualifying them from receiving benefits. It is unknown how many of these disqualified applicants would have been determined eligible for benefits in the absence of a drug-testing program. Any cost savings the state may experience from applicants who test positive on their drug tests are indeterminable. Additionally, cost savings may be reduced to the extent any cost savings from benefit disqualifications are reallocated to other programs.

Cost Savings from Current Benefit Recipients:

[The estimates contained in this analysis all assume individuals who test positive for controlled substances will be ineligible for benefits for the duration of 6 months.]

TANF: For FY 2010, FSSA reports there were 221,723 unique individuals who received either TANF only benefits, TANF and SNAP benefits, TANF and Medicaid benefits, or TANF, SNAP, and Medicaid benefits. [Note: Individuals who received only Medicaid benefits were omitted as they would be unaffected by the bill.]

If 5% the total 221,723 recipients are subjected to drug testing, 11,086 would receive a drug test. An estimated 1,796 would test positive on the first drug test and would require a verification drug test. An estimated 488 would test positive on both the initial and verification drug tests and ineligible for TANF and Medicaid benefits.

There could be a reduction in state expenditures for TANF benefits assuming a 6-month removal from benefit payments and no substitution into the program. The amount of cash assistance associated with one member

of the TANF assistance unit can be \$58.50 or \$90 monthly, depending on family size. (Dependent children would not necessarily lose benefits - only the adult's benefit would be affected.) Additionally, it is not known how many families have adults that have exceeded the maximum benefit time period in the TANF program and dependants are the only beneficiaries in the house. The reduction in the state payment for TANF benefits is estimated to be between \$56,500 and \$87,000. Any reduction in benefits paid to individuals that test positive for drugs and are removed from eligibility can be diverted to eligible individuals in other programs.

The effect this bill will have on state expenditures for TANF, state unemployment insurance benefits, and Medicaid (related to drug offenses) ultimately depends on (1) how many individuals test positive for drugs under both drug tests, (3) if these resources will be reallocated to other programs, (4) the costs of the drug tests selected by administering agencies, and (5) benefit amounts administered by program (TANF benefits increase based on family size).

UI Only: The DWD reports federal law requires unemployment insurance compensation eligibility to be specifically related to employment. As a result, the DWD is able to deny benefits for an individual who is discharged for drug use (just cause for termination) or DWD could potentially deny benefits for individuals who would otherwise have obtained employment except for a positive pre-employment drug test. The DWD reports there is difficulty with passing a requirement for a random drug screening as a condition of receiving UI compensation benefits as the drug-testing requirements are not specifically connected to employment. If the state UI benefit program were to be in noncompliance with this federal requirement, the state could be faced with a potential loss of up to \$55 M in federal funding.

Assuming that the program will test 5% of the total population of the adult benefit *receiving* population (approximately 150,000), roughly 7,500 individuals would be subjected to a urinalysis drug test. An estimated 1,215 will test positive for drugs on their initial drug test and require a verification drug test. An estimated 330 individuals will test positive in both their initial drug test and verification drug test, disqualifying them from UI benefits under the legislation.

The effect this bill will have on trust fund expenditures for UI (related to drug offenses) ultimately depends on (1) how many individuals are selected for random drug testing, (2) how many individuals test positive for drugs under both drug tests, and (3) the costs of the drug tests selected by DWD.

Of the estimated 330 individuals that will be removed from the UI benefit population, approximately 136 of these individuals receive UI benefits. These individuals would represent the reduction in trust fund expenditures for UI benefits. The average weekly unemployment insurance benefit amount is approximately \$300, and the average duration of unemployment insurance is 17 weeks (less than the 6-month ineligibility period specified in the bill). The total reduction in expenditures for every individual determined to be ineligible for UI benefits as a result of a positive initial and verification drug test is approximately \$5,100, or \$694,000 per year.

The bill specifies that DWD has the ability to contract out the drug test administration required in the bill. Contracting out the drug testing requirement may decrease the personnel costs associated with implementing the requirements of the bill.

Additional Analysis:

Individuals who are found ineligible for benefits as the result of a positive initial and verification drug test

are ineligible for the earlier of either 6 months after testing positive for a controlled substance or the date an individual complies with and completes a drug abuse treatment program. Some of these individuals would be considered eligible for Medicaid. Individuals who elect to enter a drug abuse treatment program would likely either (1) pay for treatment out-of-pocket, (2) seek treatment from a not-for-profit agency, (3) seek treatment through programs financed by the Division of Mental Health and Addiction, or (4) seek treatment that is reimbursable under Medicaid. Actual increases in DMHA and Medicaid expenditures for drug treatment programs are indeterminable.

Explanation of State Revenues:

Background on Programs- TANF Program: TANF assistance is shared between state and federal governments. However, the federal share is provided through a capped block grant allocation with a state maintenance-of-effort (MOE) requirement. TANF block grant allocations are determined on a formula basis with increased flexibility for their use by the states over what was permitted under the prior Aid to Families with Dependent Children (AFDC) Program. The state contributes roughly 1/3 of the benefits in the TANF program.

Medicaid Program: Medicaid is an entitlement program offered jointly by the federal and state government. Individuals that meet the established criteria are entitled to benefits in the program. A reduction in the number of individuals eligible for Medicaid under this bill may have the potential to decrease matching funds from the federal government or free resources for new individuals to be served in the state Medicaid program.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DWD; DFR; DMHA.

Local Agencies Affected:

Information Sources: Ford School at the University of Michigan (Pollack, Danziger, Jayakody, and Seefeldt), *Drug Testing Welfare Recipients - False Positive, False Negatives, Unanticipated Opportunities*, 2001; *Issues Relating to the Organizational Structure of the Office of the Secretary of Family and Social Services*; *FSSA Comparative Review of Selected Programs*; Jason Dudrich, FSSA; *1997 National Household Survey of Drug Abuse*; Rich Adams, FSSA; David Webster, FSSA; Susie Howard, FSSA; Elizabeth Johnson, Department of Corrections; Scott Sander, DWD; Ron Miller, DWD; Michelle Marshel, DWD; Gina Eckart, DMHA.

Fiscal Analyst: Bill Brumbach, 232-9559.